

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DIETMAR ROSE, KUPRIAN FROLOV a/k/a :
Skip Frolov, HAROLD RODENBEIKER, :
TOM SCHNEIDER, DAVID PETERSON, :
LEWIS NORMAN FERRIER, GARY FRITZ, :
MERLE GILBERTSON, JAMES KELLER, :
DORAYN KEMMITZ, PAULA KOCHON, :
RALPH MARTIN and JOHN VIGLUCCI, JR., :
Plaintiffs, :

v. :

RAHFCO MANAGEMENT GROUP, LLC, et al. :
Defendants. :

**ORDER ADOPTING
REPORT AND
RECOMMENDATION**

13 CV 5804 (VB)

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Briccetti, J.:

Before the Court is Magistrate Judge Paul E. Davison’s Report and Recommendation (“R&R”), dated December 20, 2016 (Doc. #113), in response to the Court’s Order of Reference for an inquest on damages. (Doc. #97).

Judge Davison recommended entry of a Judgment against defendant RAHFCO Management Group, LLC – in favor of plaintiffs Rose, Frolov, Rodenbeiker, Schneider, Peterson, Ferrier, Fritz, Gilbertson, Keller, Kemmitz, and Martin in certain specified amounts – in the total amount of \$5,408,774.86.

Judge Davison further recommended that the applications of plaintiffs Kochon and Viglucci for an award of damages be denied.

Familiarity with the factual and procedural background of this case is presumed.

For the following reasons, the Court adopts the R&R as the opinion of the Court.

A district court reviewing a magistrate judge’s report and recommendation “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate

judge.” 28 U.S.C. § 636(b)(1). Parties may raise objections to the magistrate judge’s report and recommendation, but they must be “specific[,] written,” and submitted within 14 days after being served with a copy of the recommended disposition. Fed. R. Civ. P. 72(b)(2); 28 U.S.C. § 636(b)(1).

Insofar as a report and recommendation deals with a dispositive motion, a district court must conduct a de novo review of those portions of the report or specified proposed findings or recommendations to which timely objections are made. 28 U.S.C. § 636(b)(1)(C). The district court may adopt those portions of a report and recommendation to which no timely objections have been made, provided no clear error is apparent from the face of the record. Lewis v. Zon, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008); Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). The clearly erroneous standard also applies when a party makes only conclusory or general objections, or simply reiterates his original arguments. Ortiz v. Barkley, 558 F. Supp. 2d 444, 451 (S.D.N.Y. 2008).

No party has objected to Judge Davison’s thorough and well-reasoned R&R.

The Court has carefully reviewed the R&R and finds no error, clear or otherwise.

CONCLUSION

Accordingly, the R&R is adopted in its entirety as the opinion of the Court.

The Clerk is instructed to enter a Judgment:

(1) awarding damages against defendant RAHFCO Management Group, LLC, in the total amount of \$5,408,774.86, to be distributed among plaintiffs Rose, Frolov, Rodenbeiker, Schneider, Peterson, Ferrier, Fritz, Gilbertson, Keller, Kemnitz, and Martin as follows:

- (a) \$1,496,811.00 – Dietmar Rose
- (b) \$520,879.86 – Kuprian Frolov (a/k/a Skip Frolov)
- (c) \$346,693.00 – Harold Rodenbeiker
- (d) \$283,338.00 – Thomas Schneider
- (e) \$499,920.00 – David Peterson
- (f) \$835,564.00 – Lewis Norman Ferrier
- (g) \$187,905.00 – Gary Fritz
- (h) \$127,142.00 – Merle Gilbertson
- (i) \$477,814.00 – James Keller
- (j) \$250,000.00 – Dorayn Kemnitz
- (k) \$382,708.00 – Ralph Martin; and

(2) denying the applications of plaintiffs Paula Kochon and John Viglucci, Jr., for an award of damages.

Dated: March 7, 2017
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent L. Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge